



RECEIVED
MAR - 8 2011
TOWN CLERK, ACTON
MD

**MINUTES OF THE HEARING ON THE PETITION OF
GEORGE & PATRICIA HARAS, 30 MINUTEMAN ROAD**

HEARING #11-01

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, January 10, 2010 at 7:30 pm on the petition of George and Patricia Haras, for a VARIANCE from Section 5 – Table of Standard Dimensional Regulations of the Zoning by-law to allow a shed to remain within the minimum required 30' foot front yard setbacks of both John Swift Road and Minuteman Road. The subject property is located at 30 Minuteman Road. Map F3/Parcel A-8

Present at the hearing was Ken Kozik, Chairman; Jonathan Wagner, Member; Marilyn Peterson, Member; Scott Mutch, Zoning Enforcement Officer; and Cheryl Frazier, Board of Appeals Secretary. Also present at the hearing were

Ken Kozik opened the hearing, read the contents of the file which included an IDC from Scott Mutch, Zoning Enforcement Officer.

Ken Kozik asked the petitioner to begin. Patricia Haras began by submitting a few documents for the record which included a signed petition from a few neighbors stating they had no issues or concerns with the shed, plans showing the concrete platform preparation for the shed, and an email from a neighbor. She then read a narrative she prepared explaining how they ended up here tonight. She said they received a certified letter from Scott Mutch, Zoning Enforcement Officer on October 20th 2010 stating that their shed was not in compliance with the town setbacks. Then on October 22, 2010 Mr. Mutch, along with another member of the Planning Department came out for a site visit and explained to Pat and George Haras that even though they had called the building department and were given permission to be 30' feet back from each street the shed was not in compliance. Scott Mutch suggested alternate site locations on the property for the shed and also mentioned to them the process to apply for a Variance for the shed. They evaluated the suggested alternative sites which did present several concerns to them so they decided to try for the Variance. She thanked the board for their time and asked the Board to find the location of the shed to be in their favor.

Ken began by explaining to the petitioner that under the zoning by-law the shed that they erected needed to be 30' feet from both Minuteman and John Swift Road. The petitioner explained that when they called the town to inquire about the shed they were told they needed to be 30' feet from the road not the property line. They believed the shed was compliant when they erected it. Ken then asked Scott if they are in violation of the 30' foot setback from both streets. Scott said they are 14' feet non-compliant on the Minuteman Road side but probably only within a foot of being compliant from the John Swift side. Ken asked Scott how they became aware of this violation. Scott said it came to the Planning Director's attention when he was driving by. Scott then sent the letter to the owners and set up a site visit. Marilyn asked for a clarification between the property line and the street. She asked who owns the pavement. Scott told her the town owns the right of way.

Marilyn asked the petitioners if the shed is moveable. Jon Wagner asked if there are any other locations where the shed could be placed if they had to move it. The petitioner's explained that between the gas line that they don't want to cover and the very wet back yard they really don't have any other place to put it.

Ken Kozik explained that the Board has to abide by Section 10.5.5 to grant a variance. The Board has no options but to abide by this section of the bylaw. Ken asked the petitioner if there was a topography issue on their property. The petitioners said they are on a slope and would have to fill the land to place the shed on the slope. The second issue is that the shed is already built and is in noncompliance even though they were unaware of it. Desirable relief could be granted.

Ken asked Scott if he thinks the topography is unique in this case. Scott does not believe it drops off significantly. He said one of the photos shows it dips slightly in the back but it's very minimal. He doesn't believe it's significant enough from adjacent properties. Scott said they suggested other locations on the property where the shed could be placed.

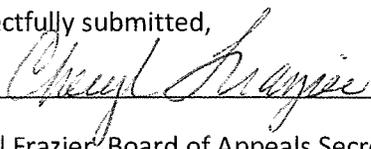
Ken asked for a motion to close the hearing. Marilyn so moved and Jon seconded the motion.

Jon does not feel it's a substantial hardship. Ken agrees with Jon. Marilyn is troubled by how this came about and feels there is a significant hardship. She feels they acted in good faith. She supports the topography and would support the Variance. Ken agrees the misinformation that was given bothers him but it is not the job of the Board to determine that. Jon doesn't feel it complies with the mandatory findings.

Ken asked for a motion to Grant the Variance. The Board voted unanimously 2 to 1 to DENY the VARIANCE.

Jonathan Wagner to write the decision.

Respectfully submitted,



Cheryl Frazier, Board of Appeals Secretary



Ken Kozik, Chairman Board of Appeals